

SENATE JOURNAL

OF THE

IDAHO LEGISLATURE

FIRST REGULAR SESSION
FIFTY-SEVENTH LEGISLATURE

SEVENTY-NINTH LEGISLATIVE DAY
TUESDAY, MARCH 25, 2003

Senate Chamber

President Risch called the Senate to order at 10:30 a.m.

Roll call showed all members present except Senators Andreason, Burkett, Cameron, Noble, and Schroeder, absent and excused.

Prayer was offered by Chaplain Gene Arnold.

The Pledge of Allegiance was led by Deidre Parish, Page.

The Senate advanced to the Third Order of Business.

Reading and Correction of the Journal

Senator Cameron was recorded present at this order of business.

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of March 24, 2003, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifth Order of Business.

Petitions, Resolutions, and Memorials

SCR 116

BY STATE AFFAIRS COMMITTEE

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND AUTHORIZING THE LEGISLATIVE COUNCIL TO APPOINT A COMMITTEE TO UNDERTAKE AND COMPLETE A STUDY OF JUDICIAL ELECTIONS, INCLUDING METHODS OF FINANCING ELECTIONS AND METHODS OF SELECTION.

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the judicial system in the state of Idaho, as in many other states, has recently been the subject of intense interest resulting from a variety of pressures upon the system; and

WHEREAS, preservation of the independence and integrity of an independent judicial system is essential to the preservation of the critical role of the judiciary in the system of American government; and

WHEREAS, judicial electioneering undermines judicial independence. The financing of judicial campaigns is thus limited to those wealthy enough to independently fund their campaigns, a limitation unrelated to judicial competence. Additionally, fundraising undertaken by candidates to achieve election may create a perception of judges feeling indebted to certain parties or interest groups; and

WHEREAS, when judges are subject to elections, there may be an impression that a judge develops a personal stake in the outcome of major cases. Elected judges cannot help but be aware that if the public is not satisfied with the outcome of a particular case, it could hurt their reelection prospects; and

WHEREAS, recent court decisions subject regulations of campaign financing to strict application of First Amendment protections which, while an essential guarantee, may minimize significant needs of citizens and voters to know the sources of funding and campaign support and to place limits on the amounts of money which can be spent in a given campaign; and

WHEREAS, in addition to considerations of campaign finance reporting and limits, there is also value in consideration of alternative judicial plans including the "Missouri Plan" and others which may offer appropriate options.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-seventh Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Legislative Council is authorized to appoint a committee to undertake and complete a study of judicial elections, including methods of financing elections and methods of selection. The Legislative Council shall determine the number of legislators and membership from each house appointed to the committee and shall authorize the committee to receive input, advice and assistance from interested and affected parties who are not members of the Legislature.

BE IT FURTHER RESOLVED that nonlegislative members of the committee may be appointed by the cochairs of the committee who are appointed by the Legislative Council. Nonlegislative members of the advisory committee shall not be reimbursed from legislative funds for per diem, mileage or other expenses and shall not have voting privileges regarding the committee's recommendations or proposed legislation. Membership may include representation from the Idaho Bar Association, the League of Women Voters, public interest groups, the Idaho Judicial Council, the court system, and others appropriate to the study.

BE IT FURTHER RESOLVED that the committee shall report its findings, recommendations and proposed legislation, if any, as may be appropriate due to the level of committee activity, to either the Second Regular Session of the Fifty-seventh Idaho Legislature or the First Regular Session of the Fifty-eighth Idaho Legislature, or to both such Sessions.

SJR 101
BY STATE AFFAIRS COMMITTEE
A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO SECTION 3, ARTICLE VIII, OF THE CONSTITUTION OF THE STATE OF IDAHO, RELATING TO LIMITATIONS ON COUNTY AND MUNICIPAL INDEBTEDNESS, TO ALLOW SCHOOL DISTRICTS TO INCUR INDEBTEDNESS WITH THE ASSENT OF TWO-THIRDS OF THE QUALIFIED ELECTORS OR THE ASSENT OF NO LESS THAN SIXTY PERCENT, RATHER THAN TWO-THIRDS, OF THE QUALIFIED ELECTORS OF THE SCHOOL DISTRICT VOTING AT AN ELECTION HELD FOR THAT PURPOSE IF THE ELECTION IS HELD ON THE FOURTH TUESDAY IN MAY OR THE TUESDAY FOLLOWING THE FIRST MONDAY IN NOVEMBER; STATING THE QUESTION TO BE SUBMITTED TO THE ELECTORATE; DIRECTING THE LEGISLATIVE COUNCIL TO PREPARE THE STATEMENTS REQUIRED BY LAW; AND DIRECTING THE SECRETARY OF STATE TO PUBLISH THE AMENDMENT AND ARGUMENTS AS REQUIRED BY LAW.

SCR 116 was introduced, read at length, and referred to the Judiciary and Rules Committee for printing.

SJR 101 was introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

The Senate advanced to the Sixth Order of Business.

Reports of Standing Committees

Senators Andreason and Burkett were recorded present at this order of business.

March 24, 2003

The JUDICIARY AND RULES Committee reports that **S 1149**, **S 1150**, **S 1151**, **S 1152**, and **S 1153** have been correctly enrolled.

DARRINGTON, Chairman

The President signed Enrolled **S 1149**, **S 1150**, **S 1151**, **S 1152**, and **S 1153** and ordered them transmitted to the House for the signature of the Speaker.

March 24, 2003

The JUDICIARY AND RULES Committee reports that **S 1122**, as amended in the House, has been correctly engrossed.

DARRINGTON, Chairman

S 1122, as amended in the House, was filed for first reading.

March 24, 2003

The JUDICIARY AND RULES Committee reports that Enrolled **S 1043**, **S 1060**, as amended, **S 1064**, **S 1074**, **S 1085**, **S 1096**, **S 1099**, **S 1100**, **S 1101**, **S 1140**, **S 1141**, **S 1142**,

S 1144, **S 1145**, **S 1146**, and **S 1147** were delivered to the Office of the Governor at 2:45 p.m., March 24, 2003.

DARRINGTON, Chairman

The report was ordered filed in the office of the Secretary of the Senate.

March 24, 2003

The JUDICIARY AND RULES Committee reports that Enrolled **SCR 106** was delivered to the Office of the Secretary of State at 2:50 p.m., March 24, 2003.

DARRINGTON, Chairman

The report was ordered filed in the office of the Secretary of the Senate.

March 24, 2003

The JUDICIARY AND RULES Committee reports out **H 269**, as amended, with the recommendation that it do pass.

DARRINGTON, Chairman

H 269, as amended, was filed for second reading.

March 24, 2003

The RESOURCES AND ENVIRONMENT Committee reports out **H 273** with the recommendation that it do pass.

NOH, Chairman

H 273 was filed for second reading.

March 25, 2003

The LOCAL GOVERNMENT AND TAXATION Committee reports out **H 264**, **H 317**, **H 339**, and **H 327** with the recommendation that they do pass.

BUNDERSON, Chairman

H 264, **H 317**, **H 339**, and **H 327** were filed for second reading.

March 24, 2003

The STATE AFFAIRS Committee reports out **S 1171**, **HJM 8**, **H 322**, and **H 357** with the recommendation that they do pass.

SORENSEN, Chairman

S 1171, **H 322**, and **H 357** were filed for second reading.

HJM 8 was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

March 25, 2003

The HEALTH AND WELFARE Committee reports out **HCR 17** with the recommendation that it do pass.

BRANDT, Chairman

HCR 17 was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Ninth Order of Business.

Messages from the House

March 24, 2003

Mr. President:

I transmit herewith **H 198**, as amended, **H 17**, as amended, **H 370**, **H 371**, **H 372**, **H 367**, and **H 279**, and I return herewith **S 1093**, **S 1123**, **S 1134**, **S 1154**, **S 1155**, **S 1156**, **S 1157**, **S 1158**, **S 1159**, and **S 1161** which have passed the House.

JUKER, Chief Clerk

H 198, as amended, **H 17**, as amended, **H 370**, **H 371**, **H 372**, **H 367**, and **H 279** were filed for first reading.

S 1093, **S 1123**, **S 1134**, **S 1154**, **S 1155**, **S 1156**, **S 1157**, **S 1158**, **S 1159**, and **S 1161** were referred to the Judiciary and Rules Committee for enrolling.

March 24, 2003

Mr. President:

I transmit herewith Enrolled **H 206**, as amended, **H 203**, **H 213**, **H 237**, **H 238**, as amended, and **H 211**, as amended, for the signature of the President, and I return herewith Enrolled **S 1016**, **S 1120**, and **S 1130**, as amended, which have been signed by the Speaker.

JUKER, Chief Clerk

The President signed Enrolled **H 206**, as amended, **H 203**, **H 213**, **H 237**, **H 238**, as amended, and **H 211**, as amended, and ordered them returned to the House.

Enrolled **S 1016**, **S 1120**, and **S 1130**, as amended, were referred to the Judiciary and Rules Committee for transmittal to the Office of the Governor.

The Senate advanced to the Tenth Order of Business.

Motions and Resolutions

On request by Senator Bailey, granted by unanimous consent, **HCR 13**, as amended, having been held, was recommitted to the Health and Welfare Committee.

The Senate advanced to the Eleventh Order of Business.

Introduction, First Reading and Reference of Bills, House Petitions, Resolutions, and Memorials

Senators Noble and Schroeder were recorded present at this order of business.

S 1173

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO SCHOOL BUILDING MAINTENANCE; AMENDING CHAPTER 10, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1018, IDAHO CODE, TO REQUIRE A SCHOOL DISTRICT DEFERRED MAINTENANCE FUND, TO SPECIFY THE PURPOSES, TO REQUIRE DEPOSIT OF MONEYS AND TO REQUIRE REPORTS; AMENDING CHAPTER 10, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1019, IDAHO CODE, TO PROVIDE A SCHOOL BUILDING MAINTENANCE EQUALIZATION ALLOCATION FROM STATE MONEYS AND TO PHASE IN THE LEVEL OF SUPPORT; AND PROVIDING AN EFFECTIVE DATE.

S 1174

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO THE VALUE INDEX CALCULATION FOR SCHOOL DISTRICTS; AMENDING SECTION 33-906, IDAHO CODE, TO PROVIDE A SCHOOL WITH AN ALTERNATIVE AS TO HOW ITS VALUE INDEX IS CALCULATED; AMENDING CHAPTER 9, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-906C, IDAHO CODE, TO PROVIDE AN ALTERNATIVE AS TO HOW A SCHOOL DISTRICT'S VALUE INDEX IS CALCULATED BASED ON THE SCHOOL DISTRICT'S FREE AND REDUCED LUNCH RATE AND TO ALLOW THE BOARD OF TRUSTEES THE OPTION OF UTILIZING THE VALUE INDEX CALCULATION THAT IS MOST ADVANTAGEOUS TO THAT DISTRICT; AND PROVIDING AN EFFECTIVE DATE.

S 1175

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO THE PUBLIC RECORDS ACT; AMENDING SECTION 9-348, IDAHO CODE, TO PROVIDE AN EXCEPTION TO THE PROHIBITION ON DISTRIBUTION OR SALE OF MAILING OR TELEPHONE NUMBER LISTS TO ALLOW STUDENT DIRECTORY INFORMATION TO BE RELEASED TO MILITARY RECRUITERS FOR MILITARY RECRUITING PURPOSES PURSUANT TO THE REQUIREMENTS OF FEDERAL LAWS.

S 1173, **S 1174**, and **S 1175** were introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

S 1122, as amended in the House, by Judiciary and Rules Committee, was read the first time at length and filed for second reading.

H 198, as amended, by Environmental Affairs Committee, was introduced, read the first time at length, and referred to the Health and Welfare Committee.

H 17, as amended, by Mr. Speaker, was introduced, read the first time at length, and referred to the Health and Welfare Committee.

H 370, **H 371**, and **H 372**, by Appropriations Committee, were introduced, read the first time at length, and referred to the Finance Committee.

H 367, by Education Committee, was introduced, read the first time at length, and referred to the Education Committee.

H 279, by Revenue and Taxation Committee, was introduced, read the first time at length, and referred to the Local Government and Taxation Committee.

The Senate advanced to the Twelfth Order of Business.

Second Reading of Bills

H 149 and **H 150**, as amended in the Senate, by Environmental Affairs Committee, were read the second time at length and filed for third reading.

H 64, as amended, as amended in the Senate, and **H 9**, as amended, as amended in the Senate, by Mr. Speaker, were read the second time at length and filed for third reading.

H 199, as amended, as amended in the Senate, by Health and Welfare Committee, was read the second time at length and filed for third reading.

S 1090, as amended, by Commerce and Human Resources Committee, was read the second time at length and filed for third reading.

The Senate advanced to the Thirteenth Order of Business.

Third Reading of Bills

S 1165 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Brandt arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Call of the Senate was requested by Senators Noh, Calabretta, and Davis.

Whereupon the President ordered the doorkeepers to lock the doors permitting no Senator to leave the Senate Chamber. The Sergeant at Arms was instructed to find and present any absent members to the Senate.

Roll call showed all members present.

On request by Senator Noh, granted by unanimous consent, the Call was lifted.

The question being, Shall **S 1165** pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 35.

Whereupon the President declared **S 1165** passed, title was approved, and the bill ordered transmitted to the House.

H 305, having been held, was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Calabretta arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 35.

Whereupon the President declared **H 305** passed, title was approved, and the bill ordered returned to the House.

H 352 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator McKenzie arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Pearce, Richardson, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 33.

NAYS--Calabretta, Schroeder. Total - 2.

Total - 35.

Whereupon the President declared **H 352** passed, title was approved, and the bill ordered returned to the House.

H 353 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Hill arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burtenshaw, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Keough, Little, Lodge, McKenzie, Noble, Noh, Pearce, Richardson, Sorensen, Stegner, Sweet, Williams. Total - 26.

NAYS--Burkett, Calabretta, Kennedy, Malepeai, Marley, McWilliams, Schroeder, Stennett, Werk. Total - 9.

Total - 35.

Whereupon the President declared **H 353** passed, title was approved, and the bill ordered returned to the House.

H 354 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Burtenshaw arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burtenshaw, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Keough, Little, Lodge, McKenzie, McWilliams, Noble, Noh, Pearce, Richardson, Sorensen, Stegner, Sweet, Williams. Total - 27.

NAYS--Burkett, Calabretta, Kennedy, Malepeai, Marley, Schroeder, Stennett, Werk. Total - 8.

Total - 35.

Whereupon the President declared **H 354** passed, title was approved, and the bill ordered returned to the House.

H 355 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Keough arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Bailey, Burtenshaw, Cameron, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Keough, Little, Lodge, McKenzie, Noble, Pearce, Richardson, Sorensen, Sweet, Williams. Total - 20.

NAYS--Andreason, Bunderson, Burkett, Calabretta, Compton, Kennedy, Malepeai, Marley, McWilliams, Noh, Schroeder, Stegner, Stennett, Werk. Total - 14.

Absent and excused--Brandt. Total - 1.

Total - 35.

Whereupon the President declared **H 355** passed, title was approved, and the bill ordered returned to the House.

H 361 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Lodge arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Brandt, Bunderson, Burtenshaw, Cameron, Darrington, Davis, Gannon, Geddes, Hill, Ingram, Keough,

Little, Lodge, McKenzie, Noble, Pearce, Richardson, Sorensen, Stegner, Sweet, Williams. Total - 21.

NAYS--Andreason, Bailey, Burkett, Calabretta, Compton, Goedde, Kennedy, Malepeai, Marley, McWilliams, Noh, Schroeder, Stennett, Werk. Total - 14.

Total - 35.

Whereupon the President declared **H 361** passed, title was approved, and the bill ordered returned to the House.

H 321 was read the third time at length, section by section, and placed before the Senate for final consideration. Senators Stennett and Gannon arose as co-sponsors of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 35.

Whereupon the President declared **H 321** passed, title was approved, and the bill ordered returned to the House.

H 248 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Goedde arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 35.

Whereupon the President declared **H 248** passed, title was approved, and the bill ordered returned to the House.

H 313 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Noble arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 35.

Whereupon the President declared **H 313** passed, title was approved, and the bill ordered returned to the House.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

Miscellaneous Business

On motion by Senator Davis, seconded by Senator Stennett, by voice vote the Senate adjourned at 12 noon until the hour of 10 a.m., Wednesday, March 26, 2003.

JAMES E. RISCH, President

Attest: JEANNINE WOOD, Secretary